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Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: *Cable Television Technical and Operational Standards*, MB Docket No. 12-217

Ms. Dortch:

On September 19, 2017, William Wallace and Leora Hochstein of Verizon spoke by telephone with Martha Heller and Lyle Elder of the Media Bureau regarding the Commission's Draft Report and Order in the above-referenced docket.¹

We support the *Draft Order's* findings that digital cable systems meeting the Society of Cable Telecommunications Engineers standard number 40 "are able to delivery good-quality video and audio to their subscribers without testing"² and that "the costs associated with testing are high and outweigh the benefits that a federal testing mandate would provide."³ We also support the *Draft Order's* finding that local franchising authorities do not need regular reports from a testing regime to determine a cable system's compliance with the Commission's new standard for digital signal quality.⁴

In light of these findings, we discussed the statement in the *Draft Order* that "nothing in this Order prevents local franchising authorities from including testing regimes in their franchising agreements."⁵ We agree with NCTA that "mandatory 'proof of performance' testing for digital signal quality – whether required by the FCC or local franchising authorities – would be unnecessary, costly and disruptive."⁶ Indeed, compliance with multiple local testing regimes would be even more costly and burdensome– without corresponding consumer benefits – than complying with one federal regime.

¹ *Cable Television Technical and Operational Standards*, Report and Order, MB Docket No. 12-217, FCC-CIRC1709-02 (Sept. 7, 2017) ("*Draft Order*").

² *Id.* ¶ 14.

³ *Id.* ¶ 15; *see also*, e.g., Comments of Verizon, MB Docket No. 12-217, at 7 (filed Dec. 10, 2012) ("revised signal quality standards would add little to a consumer's experience, although such standards would add substantial unnecessary burdens and costs on providers").

⁴ *Draft Order* at n.61.

⁵ *Id.* at n.58.

⁶ Letter from Diane B. Burstein, NCTA, to Ms. Marlene H. Dortch, FCC, MB Docket No. 12-217, at 1 (filed Sept. 18, 2017).

We recommend that the Commission clarify the first sentence of footnote 58 in the final Report and Order. In that footnote, the *Draft Order* references Section 626(c)(1)(B) (47 U.S.C. § 546(c)(1)(B)), which only authorizes review of signal quality – not specifically a testing regime – during a franchise renewal proceeding to determine whether the cable system is meeting a community’s needs.⁷ Moreover, as the *Draft Order* notes, absent consumer complaints, there should be no testing regime – at the federal or local level. “If consumers do not complain about performance, then the *presumption* should be that the system’s performance is adequate.”⁸ And, if consumers do complain, then, as the *Draft Order* explains, the cable operator will remedy any problem pursuant to the process the operator has established under the Commission’s rules.⁹

To harmonize these statements in the *Draft Order*, we recommend that the Commission revise the first sentence of footnote 58 to read: “Although we decline to adopt a federal testing mandate, nothing in this Order prevents local franchising authorities from addressing signal quality issues as authorized by the Act in franchise renewal proceedings.”

We also asked the Media Bureau Staff to clarify the process for a fiber-optic system to report that the system poses minimal risk for signal leakage. We understand that fiber-optic cable systems may make a one-time filing of Form 321 to establish that “their power level is sufficiently low to qualify for a filing exemption,” or, in the alternative, they may seek a waiver of this filing requirement in the signal leakage rules.¹⁰

Pursuant to Section 1.1206(b)(2) of the Commission’s Rules, I am submitting this letter in the above-referenced docket in the Electronic Comment Filing System.

Sincerely,



cc: Martha Heller
Lyle Elder

⁷ Section 626(c)(1)(B) refers to conduct of an administrative proceeding during renewal to consider whether, *inter alia*, “the quality of the operator’s service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix or quality of cable services or other services provided over the system, has been reasonable in light of community needs.” 47 U.S.C. § 546(c)(1)(B).

⁸ *Draft Order* at n.61 (emphasis supplied).

⁹ *Id.* (referencing 47 C.F.R. § 76.1713).

¹⁰ *Id.* ¶ 27 and n.99.